

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE EXECUTIVE AND SPECIAL SESSIONS OF THE
FOUNTAIN HILLS TOWN COUNCIL
FEBRUARY 9, 2016**

SPECIAL SESSION

*** CALL TO ORDER AND ROLL CALL**

Mayor Kavanagh called the Special Session to order at 5:32 p.m. in the Fountain Conference Room - 2nd Floor.

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Leger, Councilmember Dennis Brown, Councilmember Nick DePorter, Councilmember Cecil Yates, Councilmember Cassie Hansen, and Councilmember Alan Magazine. Town Manager Grady E. Miller, Town Attorney Andrew McGuire and Town Clerk Bevelyn Bender were also present.

AGENDA ITEM #1 – DISCUSSION WITH POSSIBLE DIRECTION TO STAFF REGARDING ACTIONS TO ADDRESS BILLING QUESTIONS/ISSUES/PROBLEMS RELATING TO THE ENVIRONMENTAL FEE.

Grady Miller stated that in November 2014, the Town Council, in trying to address the concerns of how to pay for costs associated with environmental services as there were a number of things that the Town does that are required by the Federal Government under the Storm Water Management Program that staff was directed by Town Council to implement an environmental fee. In this budget year, Town Council had placed in their budget an environmental fund with an assumption of a \$36.00 per parcel fee that would be assessed. Mr. Miller pointed out that staff went through a model process to inform the public about the fee and included Bob Burns who wrote a series of articles in the Fountain Hills Times. Mr. Miller added that an article was also placed in the “Loop” and sent out to each household. He stated staff also held several open houses for public information.

Mr. Miller maintained staff worked with the County Assessor’s office and our billing partner “AMS” to utilize the parcel data records held by the Maricopa County Assessor’s Office. He added that letters went out to all households describing the process and explaining the fee; he added that billings were sent out in January 2016. Mr. Miller explained that soon after the billings went out, staff started seeing some anomalies. Mr. Miller indicated that the #1 call was if this was a legitimate billing and why did the Town not use someone local. Mr. Miller requested direction to the questions received from residents and listed in the handout. He also stated that this special session was called because he did not have the authority to change previous Council direction and that he was looking for specific responses and direction and action at this meeting.

Mr. Miller asked Finance Director Craig Rudolphy to explain the issues found in the process.

Mr. Rudolphy maintained the task was substantially more involved than he had ever anticipated. He added that between staff and a volunteer they had in excess of two-hundred telephone calls and that between staff and one volunteer they had put in excess of two-man months hours trying to prepare for the billing, answering questions and researching some of the particulars, which almost seems like a never ending process. Mr. Rudolphy reported that as of today the billing company “AMS” had collected \$378,975.00, representing payments from 10,527 parcels. He added that “AMS” had approximately 1,000 returned mail envelopes for unknown reasons and some were returned to the Town noting on the yellow sticker placed on the envelope by the Post Office that the mail had been refused and in dispute.

Mr. Rudolphy referenced the four page handout in the packet (available on-line and in the office of the Town Clerk) listing some general questions and comments from the public concerning the invoicing. Mr. Rudolphy offered to answer questions and provide more background information.

Mr. Rudolphy indicated he wanted to focus on pages 2 through 4, which listed 26 unique questions and requested Council give staff specific direction on how they should be addressed. Mr. Miller interjected that there would be some on the list that have commonalities; he offered what he felt the intent of the Council was at the time.

Councilmember Yates asked how much was budgeted. Mr. Rudolphy responded that staff estimated 15,000 parcels at \$36.00 per parcel would total \$540,000, and it was anticipated processing would cost \$80,000.00, based on the letters sent out and mailing of the invoices, which has totaled to date \$44,734.00. Mr. Rudolphy pointed out each future billing "AMS" would charge \$1.99 for each mailing.

Councilmember Hansen asked why it was decided to bill by parcel instead of address. Mr. Rudolphy did not know, but indicated that he understood that by Statue the Town could not bill parcels according to their size or value. Councilmember Hansen asked why staff could not utilize the billing addresses from the Sanitary District or Water Company. Mr. Rudolphy stated that the utilities had not been willing to share their address data base. Town Attorney McGuire offered that there wasn't a legal impediment that he knew of, and billing by parcel was chosen as the uniform method. He also pointed out it was assumed that the Assessor's Office had the best data base. Mr. Rudolphy added that the Town did not have individual address, although our GIS may have site addresses, not all have billing addresses. Councilmember Hansen suggested staff bill by address to eliminate some of the problems in the future.

Mayor Kavanagh asked if billed by address how much that would reduce the 15,000 parcels. She also inquired if it was the intent to bill empty lots. Mr. Rudolphy answered that he did not know the intent because he was trying to implement what Council requested, and he heard bill by parcel. Mr. Miller added that to reach our funding goal, billing 15,000 parcels at \$36.00 would cover the amount needed. He added if we billed by address the fee would need to be a little higher since there would be fewer addresses. It was pointed out that GIS/CAD Operator Ken Valverde had stated there were 11,000 addresses and at \$36.00 a rough estimate would be \$396,000.00, so the fee would have to be higher to recover \$540,000.00.

Councilmember Yates asked for the amount needed to cover the Storm Water mandated expenses. Councilmember Yates stressed the fee was not a money maker for the Town, but to recoup expenses. Facilities/Environmental Supervisor Raymond Rees addressed the Council and stated expenses were dependent on the level of operation the Town wanted to pursue for certain maintenance items that were part of our Storm Water Management Plan including the air quality plan and complying with Arizona Department of Water Resource Dam Maintenance. Mr. Rees stressed that they were all mandated but the service level would have to be determined and would dictate how much money was needed to run the programs. Mr. Rees and Mr. Rudolphy agreed that \$398,000.00 was allocated for this work, but understood it could be adjusted. Mr. Rees pointed out the Town had a wash preservation ordinance that required the Town maintain washes, culverts and proper drainage cleaning. Mr. Rees added inspections were part of our Storm Water Management. Mr. Rees indicated that the cost of permits through the state and EPA totaled \$118,000.00.

Councilmember Brown observed there may not be enough funds collected, less the \$118,000.00 deducted for the required state fees, to allow the Town to catch up on the culvert and drainage clean up. Councilmember Brown expressed concern with the lack of funds to clear out washes. Mr. Rees maintained that the Fire Department assessed hundreds of acres of washes so staff could focus on those washes deemed a fire or flood hazard. He added narrow washes and those washes lined with homes were high priority. In a response to a question by Councilmember Brown, Mr. Rees added the Town was on a four year cycle and recently with the focus was on palm removal.

Councilmember Magazine recommended that staff give the Council a list of budgeted items that could be scaled down or services that could be cut to cover the \$175,000.00, shortage this year for the environmental program.

Mr. Miller noted he had previously instructed staff not to spend the full \$540,000.00 until the Town knew how much would be collected. He added this year staff was able to transfer funds from the Highway User Revenue Fund and General Fund, but would not be the case next year. Mr. Miller added this was a transitional year and staff was planning on or assuming the environmental fee or another source would cover the environmental services for next year. He had anticipated a shortage this year and knew services would have to be prioritized.

Mr. Miller suggested that since the Town knew the cost for two mailings was \$45,000.00 and it was unknown how much revenue phase II collection mailing would bring in, it was his suggestion to wait until next year's billing and include the past due collection from this year on to that billing. He also suggested that the billing could change to be by address and not parcels. He noted that a firm could be contracted to provide a clean address list. Another possibility would be to speak with Robert Bennett, General Manager for Republic Services and ask to share their address list. Mr. Miller proposed the scope for the next solid waste contract could include this. Town Attorney

McGuire maintained that the current contract could be amended if Republic Services agreed. Mr. Miller mentioned that Republic Services had offered to organize and hold a hazard waste event for an additional nominal fee.

Vice Mayor Leger asked when the “AMS” contract expired. Mr. Rudolphy answered on August 5, 2016.

Vice-Mayor Leger concluded that most residents were not opposed to the \$36.00 fee, but objected to the multiple billings and that some people were withholding payment waiting for a response from the Town. Vice-Mayor Leger proposed Council could decide who would be exempted. He maintained it was not the intent to bill for detached garages, common areas, or slices of property. Vice-Mayor Leger also felt the Council had the authority to wave these types of billings. Vice Mayor Leger asked if “AMS” had the ability to search and send notifications on multiple billings and then notify the property owners’ that multiple billings were waived and they would be accountable for one billing only. He believed that there was commonality with the handout of questions, issues and problems.

Mr. Rudolphy pointed out that some of the questions on the list in the handout may be related, but others would have to be addressed parcel by parcel. Mr. Rudolphy added the Maricopa County had identified some of the common areas, but not all of them. Vice Mayor Leger asserted that “AMS” data base could be used to identify multiple billings to one address and send a letter stating no additional fee was due. Mr. Rudolphy interjected that “AMS” mailings were first by parcel number with mailing addresses for parcel numbers only.

Director of Development Services Paul Mood maintained that GIS Tech/CAD Operator Ken Valverde had determined that staff would have to click on each individual parcel on the GIS and compare owners who had paid and those parcels deemed exempted. Mr. Valverde explained that information was available in the “Land Use Analysis Report” that could be helpful. Mr. Valverde added that needed common element units were lacking or omitted from the Maricopa County Assessor’s records.

Vice Mayor Leger suggested restructuring the process and possibly issuing an apology for the multiple billing. Vice Mayor Leger stated he wished this process was called “Infrastructure Improvement Fee” instead of “Environmental Fee” making it more acceptable to the public.

Mayor Kavanagh asked if it would be possible to obtain a list of addresses and compare them with those that paid. Mr. Rudolphy responded that it would take a lot of staff time to match, but it could possibly be done. Mayor Kavanagh expressed it was unfair to accept payment from some and not hold others accountable. She added that it was interesting that the Town did not have a list of addresses for the Town’s homeowners.

Mayor Kavanagh asked for Council’s direction on some of the problems listed on the handout because staff promised they would have some kind of direction.

Mr. Miller agreed that continuing to bill by parcel was not working and mentioned at the sale of property the Assessor’s Office needed time to update their records. Mr. Miller suggested coming back with a sound plan on addressing these issues in the future and stop following up at this time. Mr. Miller also added he felt staff had done everything possible, but did not anticipate these problems.

Mayor Kavanagh was concerned that some people had overpaid and should be reimbursed. She also recommended that staff get the parcel numbers and addresses and match them to the addresses involved.

Councilmember Brown asked for a total number of parcels exempted. Mr. Rudolphy answered they did not know. Mr. Miller brought up that he knew of a golf course paying only 3 out of the 40 statements received.

Councilmember Yates suggested that Council empower someone on staff (the Town Manager) to decide case by case exemptions and give a report on a quarterly basis as to what’s been done. Mr. Miller agreed and requested Council give direction on those exemptions so staff could work with “AMS” on the issues.

Vice Mayor Leger stated some homeowners hold title to more than one property and would be obligated to pay per address, but the homeowner that had a garage on a separate parcel should not be charged for his garage. He also pointed out that those who live in a duplex were paying on each side but should not be paying for common areas.

Councilmember Yates suggested that staff bring back to Council a list of suggested exemptions, since all the Councilmembers seem to be in agreement. Mr. Miller recommended through the budget process staff could develop a plan for next year and vet an address process for the clean list.

Mayor Kavanagh expressed her desire to be fair and to fix the problems. Mayor Kavanagh extended an invitation for those attending from the public to speak.

Councilmember DePorter concluded that those people that had been on hold can now go ahead and contact Mr. Miller and request a parcel related exemption and proceed with payment.

Councilmember Yates suggested “AMS” add additional ways people could pay other than credit card or mailing a check.

Mr. Miller requested a formal motion to include the following direction:

- i) Staff would identify residents that have issues as listed on the handout and get back to them.
- ii) Staff would attempt to match up the parcels with addresses and identify where we had multiple parcels for single addresses.
- iii) Authorize the Town Manager to hear appeals and make decisions when there are questions.
- iv) Mayor Kavanagh added that after a decision was made staff would contact Bob Burns, FH Times and request him to run an article explaining the decision so people know if they overpaid and entitled to a refund.

Councilmember Hansen **MOVED** to approve the direction provided to staff regarding the environmental fee questions, issues and problems and approving the Town Manager with having the ultimate authority to address any questions, issues and problems. Councilmember Magazine **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #2 - ADJOURNMENT.

Councilmember Yates **MOVED to adjourn the** Special Session at 6:40 p.m. and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by those members present (7 -0)

Mayor Kavanagh reminded the Council that they would be meeting in executive session at this time.

EXECUTIVE SESSION

*** CALL TO ORDER**

AGENDA ITEM #1 – ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: PURSUANT TO: A.R.S. §38-431.03(A)(3), DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY, AND (2) A.R.S. §38-431.03(A)(4), DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY’S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION(SPECIFICALLY, THE MORNINGSTAR PROJECT.)

Mayor Kavanagh called the Special Session to order at 5:32 p.m. in the Fountain Conference Room - 2nd Floor.

Present for roll call were the following members of the Town Council: Mayor Linda Kavanagh, Vice Mayor Leger, Councilmember Dennis Brown, Councilmember Nick DePorter, Councilmember Cecil Yates, Councilmember Cassie Hansen, and Councilmember Alan Magazine. Town Manager Grady E. Miller, Town Attorney Andrew McGuire,

Development Services Director Paul Mood, Senior Planner Robert Rodgers, and Town Clerk Bevelyn Bender were also present.

Councilmember DePorter **MOVED** to convene the executive session and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY**, by members present (7 - 0)

AGENDA ITEM #2 - ADJOURNMENT

The meeting adjourned without objection at 7:30 PM.

TOWN OF FOUNTAIN HILLS

By _____
Linda M. Kavanagh, Mayor

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Session, held by the Town Council of Fountain Hills, in the Town Hall Council Chambers and the Executive Session, held in the Fountain Conference Room – 2nd floor, on the 9th day of February, 2016. I further certify that the meeting was duly called and that a quorum was present.

DATED this 3rd day of March, 2016.

Bevelyn J. Bender, Town Clerk